

TO HELP REFUGEES OF WAR IN QUEBEC AND CANADA TO LOVE JUSTICE AGAIN

Some examples with the victims of the Colombian armed conflict

Me François-David Bernier¹ et Nikolas-Samuel Baron Bernier²



Suzan Edith Baron Lafrenière

En secret (oeuvre disparue 2017)

¹ Lawyer, Director of La Firme Lawyers, judicial analyst at TVA and LCN, judicial columnist for the Journal de Québec and the Journal de Montréal and legal journalist at QUB radio, François-David Bernier, in addition to practicing law, is passionate about law as a discipline in all its expressions, his vocation It is to demystify the law and make it more accessible to society in general. His search is to find the right questions in order to make reflections on the different operators of the legal system in search of solutions to different problems and, therefore, improve legal practices.

² Biologist , science popularizer and founder of Histoire des Sciences-Théâtre interactif de vulgarisation scientifique, Nikolas-Samuel Baron Bernier has also worked as a legal researcher for different media (TVA, LCN) and as a reporter in forensic sciences for QUB radio. In his work as a collaborator of ASOVICA, he is interested in the collection, synthesis and dissemination of information on the situation of refugees, victims of the Colombian armed conflict in Canada. Another topic of interest is transitional justice, the restorative justice that is put into operation during peace agreements.

A refuge, a duty and a right

Canada has a long historical tradition of refuge, and it can be considered as “a nation of immigrants, including the first settlers from Europe, who arrived from overseas during the XV th century and who gradually took the indigenous lands” . According to the 2019 Immigration Annual Report to Parliament, “Canada ranked first of any country in the world in resettlement, with more than 28 000 refugees resettled” in 2018.

“Ruled by the 1951 Convention relating to the Status of Refugees, the status of refugee and asylum seeker is a matter of international and domestic law”.

Refugees leave their countries to come to Canada because they are persecuted, because they are threatened with death, because their lives and that of their families are in danger. They leave everything to come and rebuild their lives in a country that offers them security and treats them with dignity.

It's not about charity. This is part of our essential laws and necessarily involves duties, obligations and rights, both on the part of the governments - the government of the expelling country and the government of the host country - and of the refugees.

Equality and Justice

By obtaining refugee status, becoming permanent residents and future citizens for many, we therefore expect that they will find equal opportunities to develop as humans in Canadian and Quebec society and thus to contribute like everyone else and all to the well-being and development of the country.

And that's what usually happens. We are a warm and well-organized host society, social programs are generous and access to justice relatively "easy". Refugees, on the other hand, are determined to rebuild their lives, are hardworking and there are many stories of resilience and successful integration into the new host society.

This is true in theory. Yet, in practice, however, there are many barriers that hinder this access to equality and cause a series of issues that end up costing everyone, whether for our refugee citizens themselves in terms of stigma, psychological pain and social stagnation, or for the justice system and the health system.

For people who have been forced to flee their country precisely because their quest for justice has encountered a cruel impasse, for this highly vulnerable population, the role that justice and law should play would be to generate conditions of equality and dignity, but also, for example, to generate opportunities to be able to pursue their careers where they were suddenly stopped.

We briefly raise here, by way of example, three problems related to access to justice for refugees who have been noticed among the victims of the Colombian armed conflict in Canada and we try to propose, or rather briefly outline, possible solutions. However, the expression "access to justice" must be understood not only as "access to legal services" as it is traditionally used, but to broaden it to the meaning of access to fair opportunities or even as "restoration of justice" after a violently shattered life trajectory and immeasurable loss.

Note that these problems specific to the condition of refugees, and in particular of war victims, can be combined with the more general problems of access to justice for vulnerable people, in particular because of the precarious socio-economic conditions, upon their arrival in Canada and in the early years. Then, having entered the middle class, some may find themselves with the same problems of access to justice as many Quebec and Canadian families, earning a little too much to be entitled to Legal Aid, but too little to be able to afford to pay a lawyer.

By noting the following three issues, which undoubtedly do not represent an exhaustive portrait of the problems encountered by refugees who are victims of war, we especially want to open up brainstorming and invite as many lawyers, legal system workers, social workers and refugees to share their ideas and testimonials with us, with the aim of improving the efficiency of the system. This is why in terms of solutions, we deliberately ask more questions than we answer.

THE 3 BARRIERS:

1- WAR INJURIES

The atrocities suffered by the refugees who are victims of the war in their country have caused psychological damage

that continues and can hinder their integration into the host society (see the articles by Ingrid Garcia , de Laura Gallo Tapias , de Amparo Jiménez et de Elizabeth Garcia of Nodo Quebec of the Comision de la Verdad). As justice has often been one of the most severely violated victims, the mistrust developed by these refugees frequently continues to distort the perception of the justice system here . Indeed, how can we believe that the judicial system can fully meet the needs of the population, when for a whole life we have lived only with impunity for crimes and massacres, institutionalized corruption, when each time we have wanted to denounce injustice or crime, they bore the brunt of their attempts?

From mistrust to avoidance behavior causing ignorance and misunderstanding, there is only one step. On another level, untreated war trauma can cause psychological distress and set off the known spiral that goes from mental illness to wrongdoing, on oneself or on others.

According to Elizabeth Garcia, a lawyer specializing in minority rights in Colombia and now a Canadian citizen and founder of ASOVICA, "Canada cannot simply open the doors of its borders and its citizenship to refugees, it must also from that moment on, take responsibility and support all these men, women and children to become full citizens so that they can truly achieve equality. (...) For example, the victims of war should be systematically supported in a process of healing from their traumas and injuries, and this would benefit everyone since they could enrich Canadian and Quebec society by exercising their full potential, whether on a human or professional level. (...) Refugees must cease to be just a right and become a home. "

Investing more so that this period of transition is a guarantee of a better development as a healthy, enlightened citizen and participating in democracy, would benefit all of society.

2- LANGUAGE AND CULTURAL MISUNDERSTANDINGS

The language barrier can have important consequences not only on the degree of integration of refugees into the host society in all spheres of life (work, education, community life, social network, etc.) but also on understanding on a day-to-day basis, operating rules, public advisories and directives issued by the government (for example in public health), laws and regulations and the functioning of the judicial system.

In the case of Quebec, despite the fact that a period of several months is granted for francization, in fact we find that this period is often not sufficient to acquire the required level of language that the refugee (or immigrant in general) need to be considered to have equal opportunities of access to employment, education and justice, as well as a multitude of services and rights which they may well often simply ignore the existence.

Of course, one can argue in particular that there is a range of local services (for example, local justice centers) or community services that have translators, but this is not the case everywhere. And this can only be a temporary and transitory solution, sooner or later it is necessary to bet on the empowerment of the person and his capacity to develop the necessary tools not only to communicate and to manage from day to day, but also to understand the systems, issues and lifestyle specific to their new home.

More specifically, with regard to certain legal issues, the simple fact of not having a sufficient command of one of the two official languages can cause disinterest and a more or less pronounced detachment from current events, the media, and more seriously, from laws and regulations. This phenomenon, if combined with isolation or ghettoisation, risks fostering ignorance of certain customs, mores or ways of acting that would be tolerated in the country of origin but reprehensible in the host society. Thus, for example, people may be arrested for an offense and are surprised to have broken the law, speaking out that this behavior was accepted in their country. We sometimes even speak of gulfs separating two different "legal cultures".

Obviously, "No one is supposed to ignore the law" and it goes without saying that it is a duty for the newcomer to learn the habits and customs as well as the law of the land, everyone will agree. But again, we just want to give ourselves the tools to better understand, to remain

pragmatic, and to ask if there is no need to do better to help them accomplish this duty, for the good of all?

Solutions can range from extending the francization time to training more people in the justice system on these cultural differences.

3- DISCRIMINATION

Discrimination, whatever its nature, can hinder the social development of immigrants and refugees, and hinders the path to justice. Whether we are talking about racism, xenophobia, anti-semitism, islamophobia, generalizations penalizing all individuals of an ethnic or religious group, this harmful behavior is frequently reported in work situations, access to housing, or even on a daily basis in public space or in the neighborhood, in the form of insult, threat, or even assault.

In the specific case of Colombian refugees, for example, this may be a stigma due to the naive amalgamation that many people make with the image of drug traffickers conveyed by television and cinema. Several Colombians have reported suffering from this outrageous association which does not correspond to their reality, nor of course to the great diversity of the Colombian population, which cannot be reduced to a single stereotype.

Other experiences of "indirect" discrimination have been experienced in connection with housing, whether at the research stage, where the intolerance of several owners of the presence of children necessarily penalizes Colombian families, which are often large, or even on the cohabitation plan, where the manifested intolerance of certain tenants towards the aromas of cooked food to which they are not used was perceived by the newcomers as a rejection of their culture.

Obviously these cases appear here simply as examples to make it understood how difficult it can be for a refugee with multiple injuries, already having to face the challenge of exile, self-reconstruction and adaptation to the new host society, to have to undergo in addition hostile and unjust behaviors which can go as far as compromising their confidence in social integration.

Once again, justice must play its role of moderator of inequalities which would distortly sculpt the portrait of society if the nature of ignorance was allowed to take its course.... This is good because the law is everywhere, governs and harmonizes everything, even if people do not realize it: at school, at work, in relations between landlords and tenants, etc.

The solutions in these different spheres range here from the stricter application of the principles of positive action measures (or even of "positive discrimination") combined with increased vigilance (Régie du logement, Travail, Éducation, etc.) to awareness campaigns and intercultural meetings.

At another level, the prevention of racism, xenophobia, anti-semitism, islamophobia, discrimination and hate propaganda can already be considered as a major subset of the prevention of crime, and requires increased investment and resources.

IN CONCLUSION

In Colombia, in the instances (Truth Commission, Transitional Court of Justice) created in the wake of the Peace Agreement following a devastating armed conflict that has lasted for 60 years and which has killed at least 100,000 people and caused an exodus of 1 million refugees in the world, we constantly hammer home, as much as in exile, the importance of ensuring respect for the essential rights to justice, reparation and non-repetition of violence. Canada and Quebec, with thousands of Colombian refugees, are part of this major process in the history of nations that will make the difference between unpunished barbarism and the civilization of a better world, a world that acts responsibly in participating in the resilience, healing and access to justice of hundreds of thousands of human beings, men, women, children, who should never have suffered such violence.

As developed at the start of this article, the example of Colombian refugees tells us about the injustices also experienced by other war refugees in Quebec and Canada. In this concern for justice and equity, but also for the pragmatism and efficiency of the system, we share our perception that, despite the excellent organization of the reception system and the measures

put in place to promote transition and integration, important issues must be improved to promote healing from war wounds, linguistic and cultural integration, as well as to counteract discriminatory behaviors that can hinder the development of refugees in Quebec and Canadian society. Everyone will benefit. Because yes, Justice is not just an ethereal ideal, it has real and practical effects. When applied fairness becomes an everyday reality, when you think about it, it allows everyone's potential to be actualized. And that's good for morale, including the economy. A healthy and prosperous society in a fair and equitable social body.

To open up more about the role that restorative justice can play, not only for war refugees, but for any person or group who has experienced violence or conflict, we recommend to justice system stakeholders, community stakeholders or simply any citizen curious about how to optimize the potential of our population, to find out about what is happening at the moment in Colombia and in Canada with the Transitional Justice for Victims of the Colombian Armed Conflict, as well as with the Truth Commission. To convey how inspiring these processes can be, we will quote Concordia University professor Luis Carlos Sotelo, whose research objectives are "to advance the objectives of transition, in particular those related to restorative justice, such as, for example, healing, recognition of responsibility, clarification of the truth, building collective memory, performing acts of reparation, rebuilding the social fabric, etc."

In closing, we wanted to open the reflection by asking this question: if justice must act here now in Quebec and in Canada to repair through some of its citizens the consequences of a civil war which caused an exodus of 1 million people, could it not act upstream, via international law and international trade, on the causes?

Bibliography

- Abella, Irving et Molinar, Petra, "Réfugiés" dans *L'encyclopédie canadienne*
- Gallo Tapias, Laura, (2020). *Algunas reflexiones sobre el acompañamiento psicosocial a colombianos y colombianas en Quebec.*
- García, Elizabeth, (2020). *Con nosotros-a-e-, todo; sin nosotros-a-e-, nada: La importancia de que las víctimas en el exterior y sus organizaciones también estén en el centro de la acción.*
- García, Ingrid, (2020). *La verdad de las Mujeres Víctimas del Conflicto Armado Colombiano: Migrantes, Exiliadas y Refugiadas.*
- Jiménez, Amparo, y García, Elizabeth, (2020). *Impactos del exilio colombiano por el conflicto armado en la provincia de Quebec.*
- Riaño Alcalá' Pilar, (2020) *La migración forzada de colombianos a Canadá: Tendencias, características e impactos.*
- Sotelo, Luis Carlos, (2020) *Alianzas para una mejor escucha.*